

**2010 IRRIGATION TOTAL**

	<b>TOTAL</b>
<b>BID AMOUNT</b>	

**THIS IS TO BE THE FIRST PAGE OF ENTIRE BID.**

**NOTICE TO BIDDERS**  
**City of Carmel, Indiana**

**Department:** Carmel Street Department  
3400 W. 131<sup>st</sup> Street  
Westfield, IN 46074

**Project:** 2010 ROUNDABOUT AND MEDIAN IRRIGATION

Notice is hereby given that the Board of Public Works and Safety for the City of Carmel, Hamilton County, Indiana, will receive sealed bids, during regular business hours, up to, but not later than 10:00 A.M., Wednesday, February 17<sup>th</sup>, 2010.

All bids and proposals shall be properly and completely executed on the proposal forms provided with the plans and specifications, and shall include the non-collusion affidavit required by the State of Indiana. The bid envelope must be sealed and have the following words only written in ink on the outside of the envelope:

**Bid: 2010 Roundabout and Median Irrigation**

Project manuals may be obtained from the Carmel Street Department, 3400 W. 131st Street, Westfield, IN 46074.

A **pre-bid conference** to discuss the Project, the bidding requirements and other important and related matters will be held on **Tuesday, February 9<sup>th</sup>, 2010 at 10:30 a.m.** at Carmel Street Department, 3400 W. 131st Street, Westfield, IN 46074. All prospective bidders are encouraged to attend the pre-bid conference. The pre-bid conference is **not** mandatory.

General Form No. 96 must be completed and filed as a part of the bid package. All bids are to be sealed with the word **"BID – 2010 ROUNDABOUT AND MEDIAN IRRIGATION"** on the lower left hand corner of the envelope. Bids will be opened and read aloud at 10 a.m. on February 17<sup>th</sup>, 2010 at the Board of Public Works and Safety meeting on the 2<sup>nd</sup> floor of Carmel City Hall, One Civic Square, Carmel, IN. All persons interested in bidding shall register a contact name and address with the Street Department to ensure that all changes or questions and answers are available for review by all interested parties.

No bidder may withdraw any bid or proposal within a period of thirty (30) days following the date set for receiving bids or proposals. The Carmel Board of Public Works and Safety reserves the right to hold any or all bids and proposals for a period of not more than thirty (30) days, such bids and proposals to remain in full force and effect during said time period. The City of Carmel reserves the right to reject and/or cancel any and all bids, solicitations and/or offers in whole or in part as specified in the solicitation for bids when, in the City's sole discretion, it believes that it is in the best interests of the City to do so, as determined by the purchasing agency in accordance with IC 5-22-18-2.

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Diana L. Cordray  
Clerk-Treasurer

Please publish January 28<sup>th</sup>, 2010 and February 4<sup>th</sup>, 2010

**INSTRUCTIONS TO BIDDERS**  
**City of Carmel**

**OWNER:** City of Carmel by and through its Board of Public Works and Safety

**Project:** 2010 ROUNDABOUT AND MEDIAN IRRIGATION

**Owner's Representative:** Dave Huffman  
Carmel Street Department  
3400 W. 131<sup>st</sup> Street  
Westfield, IN 46074

**1. GENERAL**

- 1.1 Submission of a Bid shall constitute an unconditional agreement and acknowledgement by the Bidder to be bound by all terms and conditions set forth herein and in any of the Documents assembled or referred to in the Bid Package of which these Instructions to Bidders are a part.
- 1.2 Sample forms are included in the Bid Package to acquaint Bidders with the form and provisions of various Bid Documents and other Documentation required by the Contract Documents to be executed, completed and submitted by some or all Bidders, either as part of a Bid Submission or after the Bid Date.
- 1.3 Instructions and requirements printed on any sample form included in the Bid Package or any form not so included but required to be completed, signed or furnished by a Bidder as part of a Bid Submission or after receipt and opening of Bids shall be deemed requirements established by these Instructions to Bidders to the same extent as if fully restated herein.
- 1.4 All communications for the administration of the contract shall be as set forth in the Contract Documents and, in general, shall be through the City of Carmel Street Department.

**2. DEFINITIONS**

The following definitions shall apply to these instructions to bidders:

- 2.1 Agreement – The Agreement For Purchase of Goods and Services contained in the Bid Documents, as well as all exhibits or attachments thereto and all documents incorporated therein.
- 2.2 Bidder – Any person or entity who submits a Bid.
- 2.3 Bid – A written proposal submitted by a Bidder as part of the form prescribed herein offering to provide the vehicles and to fulfill all other requirements of the Contract Documents for one or more specified prices.

- 2.4 Bid Documents – All documents and completed forms required to be submitted by a Bidder with and as integral parts of a Bid Submission, whether or not included as sample forms assembled in the Bid Package of which these Instructions to Bidders are a part. Such Bid Documents are listed and more fully described in Section 4.3 hereof.
- 2.5 Bid Date – The date when Bids are to be received, opened, and publicly read aloud as established by the Notice to Bidders as may be modified by addenda.
- 2.6 Bid Package – The set of documents, sample forms, and Contract Documents approved by the OWNER for the Project described in the Notice to Bidders and of which these Instructions to Bidders are a part.
- 2.7 Bid Submission – All documents presented by a Bidder for receipt and opening on the Bid Date.
- 2.8 Contract Documents – The Agreement and any exhibits or attachments thereto and any documents incorporated therein (sometimes referred to as the “Contract”), the addenda (which pertain to the Contract Documents), the Instructions to Bidders, the advertisement, notice to bidders, the contractor’s bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award), the notice to proceed, the bonds, and the specifications as the same are more specifically identified in the Agreement and/or the Bid Package.
- 2.9 OWNER - The City of Carmel, Indiana, acting by and through its Board of Public Works and Safety and the Carmel Street Department.

In all other respects, terms shall have their ordinary meaning unless their meaning is specifically stated in the Contract Documents.

### 3. EXAMINATION OF DOCUMENTS

- 3.1. Before the Bid Date, all Bidders shall carefully and thoroughly examine the specifications and other Contract Documents as available in the locations stated in the Notice to Bidders and shall assume the full risk of their own judgments as to the nature, quality and amount of the whole of the project bid, and for the price bid assumes the risk of any and all variances or errors in any computation or statement of amounts or quantities necessary to complete the project bid upon in strict compliance with the Contract Documents.

### 4. BID SUBMISSION

- 4.1. All Bid Documents shall be placed within a sealed envelope which shall be plainly labeled on the outside with the words “**BID – 2010 ROUNDABOUT AND MEDIAN IRRIGATION**” on the lower left-hand corner as indicated on the Notice to Bidders and also include the name and address of the Bidder on the envelope. If forwarded by mail,

the sealed envelope must be enclosed in another envelope addressed to: City of Carmel, Clerk-Treasurer's Office, One Civic Square, Carmel, Indiana 46032.

- 4.2. All Bid Documents as herein prescribed must be submitted with, and are integral parts of, each Bid Submission and shall be subject to all requirements of the Contract Documents, including, but not limited to, all drawings and these Instructions To Bidders. Bid Documents must be properly filled in and completed in every material respect and without interlineations, excisions, special conditions, qualifications or exceptions. Each Bid Document requiring a signature shall be signed by an individual duly authorized to execute same on Bidder's behalf. A Bid executed by a corporation, joint venture, or other entity with an assumed name shall have the legal and correct name thereof followed by the word "by" and the signature and title of the officer or other person authorized to sign for it and a corporate resolution or similar document authorizing such officer to bind the entity.
- 4.3. The Bid Documents to be thus submitted by each Bidder shall consist of both of the following (4.3.1, 4.3.2):
  - 4.3.1. Bidder's Itemized Proposal and Declarations. A sample of this document is included in the Project Manual and must be utilized by all Bidders. Such document consists of the following constituent "Parts":
    - Part 1 - Bidder Information
    - Part 2 - Proposal (Bid)
    - Part 3 - Contract Items and Unit Prices
    - Part 4 - Exceptions
    - Part 5 - Financial Statement
    - Part 6 - Additional Declarations
    - Part 7 - Non-Collusion Affidavit
    - Part 8 - Signatures
  - 4.3.2. Bid security in the form of a bid bond or certified check in an amount not less than ten percent (10%) of the Bid price. Such Bid security shall serve to insure the execution of the Agreement and the furnishing of all other required Documents by the successful Bidder, including performance and payment bonds. A sample bid bond form is included in the project manual for this bid project and such form, or such other form as may be approved in advance by OWNER, shall be utilized if such a bond is furnished as Bid Security. A bid bond shall be executed by a surety company licensed to transact such business in the State of Indiana and qualified as a surety under the underwriting limitations on the current list of "Surety Companies Acceptable on Federal Bonds," as published in the U.S. Treasury Department Circular No. 570; the Bidder shall also furnish as part of the Bid Submission a signed power of attorney establishing the authority of the person executing such bid bond on behalf of the surety. Bid security shall be held until the Agreement is executed with the successful Bidder. In the event that all Bids are rejected, the Bid security of all Bidders will be returned upon request. No "annual" bid bonds, cash deposits or cashiers' checks will be accepted.

- 4.4. Bids may be withdrawn in person by a Bidder during the City's normal hours of business prior to the time fixed for opening of Bids. In the event of a valid withdrawal of a Bid, the Bid security of the withdrawing Bidder will be returned promptly. No Bid may be withdrawn after opening of Bids has commenced except after expiration of such period following the Bid Date as is specifically provided in the notice to bidders or as otherwise governed by law, plus any extension thereof as provided elsewhere in these instructions to bidders.
- 4.5. Bids will be received up to the time specified in the notice to bidders. Bids received after that time will be returned unopened. All Bids will be stamped thereon showing the date and time received by City.

## **5. POST-BID REQUIREMENTS**

Within three (3) business days following notification by OWNER, the apparent lowest responsive Bidder will be required to submit additional documents and satisfy additional requirements as conditions to such Bidder being found by the OWNER to be a responsible Bidder, as follows:

- 5.1. Proof of Insurability. The Bidder shall furnish: (1) proof of insurance showing existing coverage in accordance with the terms and amounts stated in the general conditions, or (2) a letter or statement certifying that, in the event that the Bid is awarded by the OWNER, an insurance company will provide the required coverage to the Bidder submitting the Bid. Such proof of insurance or the letter/statement shall be issued by a financially responsible insurance company authorized to do business in the State of Indiana.
- 5.2. Surety Letter of Intent. The Bidder shall furnish a written statement or letter from a surety company licensed to transact such business in the State of Indiana and qualified as a surety under the underwriting limitations on the current list of "Surety Companies Acceptable on Federal Bonds", as published in U.S. Treasury Department Circular No. 570 which assures the OWNER that, in the event the Bid is accepted and the project bid upon is awarded by OWNER to Bidder, said surety will execute and deliver both a performance bond and a payment bond as required by the Contract Documents.
- 5.3. Joint Venture Agreement. If the Bidder is a joint venture, partnership or other combination of two (2) or more persons or entities, the Bidder shall submit a copy of the joint venture or other agreement by which such joint venture, partnership or other association has been formed, executed by all such participating persons or entities. If the Bid is signed by less than all parties that comprise the Bidder, suitable written evidence of the authority of such signing party to bind all such parties must also be furnished.
- 5.4. Manufacturers List. The Bidder shall submit a completed manufacturers list on the form provided in these Bid Documents.

## **6. BID EVALUATION AND AWARD**

- 6.1. Award of the project bid upon will be made to the lowest, most responsive and most responsible Bidder where the Bid is reasonable and does not exceed the funds available said project. The OWNER reserves the right to reject all Bids and may waive or allow a

Bidder to correct errors, omissions or other irregularities in Bid Documents that are found not to have afforded the Bidder a substantial competitive advantage over other Bidders.

- 6.2. The OWNER shall have the right to reject any Bid if investigation of the Bidder fails to satisfy the OWNER that such Bidder is properly qualified to carry out the obligations and complete the project bid upon. Any or all Bids may be rejected if there is reason to believe that collusion exists among Bidders.
- 6.3. Patent math errors in statements of unit prices or totals may be corrected by the OWNER, in OWNER's sole discretion, in which case the corrected amounts will be used for the purpose of Bid evaluation, comparison and other award considerations. However, the OWNER shall not be required to discover or correct any error or omission in a Bid and the Bidder shall assume the risk of and be bound to the consequences of any such error or omission.
- 6.4. The OWNER may, at its sole option, award the project bid upon to a Bidder on a conditional basis to afford the Bidder additional time and opportunity to submit required documents or to fulfill other requirements. In such case, the OWNER will furnish to the Bidder a notice of conditional award which will establish (i) the additional conditions to be fulfilled for the award to become effective, and (ii) the time limit within which such conditions shall be satisfied. If the Bidder fails to satisfy the conditions in the manner and within the time specified in such notice, the OWNER may declare such Bidder to be non-responsive and award the project, conditionally or unconditionally, to another Bidder. Time limitations governing the OWNER's award of the project may be extended by OWNER for such additional period as may be reasonably required by Bidder to effectuate the conditional award procedure set forth in this sub-section, and no Bid may be withdrawn during such period of extension.

## **7. CONTRACT EXECUTION; SUBMITTALS**

- 7.1. The successful Bidder shall sign and deliver at least two (2) counterparts of the Agreement, and make delivery thereof to the OWNER, along with all other documents as prescribed by the Contract Documents. After execution and delivery of the Agreement and all other required documents, and acceptance thereof by the OWNER, the Bid security furnished by each Bidder will be returned to the Bidder upon request.
- 7.2. If the successful Bidder fails or neglects to execute and deliver the Agreement and all other required documents as prescribed by the preceding sub-section, the Bidder shall be deemed to have repudiated the Agreement and thereupon the award shall be null and void; and the Bid security provided by the Bidder shall be forfeited to and retained by the OWNER as liquidated damages for such failure of the Bidder to execute the Agreement, it being understood and agreed that the character and amount of actual damages sustained by the OWNER cannot reliably be ascertained and measured and that the amount of the Bid security is intended as a reasonable prospective estimate of such actual damages.
- 7.3. Concurrent with the execution and delivery of the Agreement to the OWNER, or within such other period as the OWNER may prescribe, the successful Bidder (CONTRACTOR) shall submit the following as conditions to the Bidder's right to proceed with and receive payment for any work performed on the project:

- 7.3.1. A one hundred percent (100%) performance bond, a one hundred percent (100%) payment bond and a ten percent (10%) maintenance bond as prescribed by the general conditions or other Contract Documents. Such bonds shall be executed utilizing the sample forms included in the project manual, or on alternative forms approved in advance by the OWNER. Indemnification clauses between successful Bidder and the surety shall not be binding upon the OWNER;
- 7.3.2. Other post-Bid submittals required by the Contract Documents.

END OF INSTRUCTIONS TO BIDDERS





**PROPOSAL PACKAGE**  
**FOR**  
**CITY OF CARMEL, INDIANA**  
**BY AND THROUGH ITS**  
**BOARD OF PUBLIC WORKS AND SAFETY**

**PROJECT: Street Department**

**2010 ROUNDABOUT AND MEDIAN IRRIGATION**

**BIDDER SHALL RETURN THIS**  
**ORIGINAL PROPOSAL AND ONE (1) COPY**  
**OF THE ENTIRE PROPOSAL PACKAGE WITH BID**

**IF THERE ARE ANY QUESTIONS CONCERNING THE CONTRACT**  
**DOCUMENTS, PLEASE CONTACT**  
**DAVE HUFFMAN AT 733-2001**

**BIDDER'S ITEMIZED PROPOSAL**  
**AND DECLARATIONS**  
City of Carmel

Instructions To Bidders:

*This form shall be utilized by all Bidders. Except as otherwise specifically provided, all Parts shall be fully and accurately filled in and completed and notarized.*

Project:       **Street Department**  
                  2010 ROUNDABOUT AND MEDIAN IRRIGATION

Proposal For: 2010 ROUNDABOUT AND MEDIAN IRRIGATION  
                  City of Carmel

Date: \_\_\_\_\_

To:       **City of Carmel, Indiana, Board of Public Works and Safety**

PART 1

BIDDER INFORMATION  
(Please Type or Print)

1.1 Bidder Name: \_\_\_\_\_

1.2 Bidder Address: Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_

1.3 Bidder is a/an *[mark one]*:

\_\_\_\_\_ Individual \_\_\_\_\_ Partnership \_\_\_\_\_ Indiana Corporation;

\_\_\_\_\_ Foreign (Out of State) Corporation; State: \_\_\_\_\_;

\_\_\_\_\_ Joint Venture \_\_\_\_\_ Other: \_\_\_\_\_.

1.4 *[The following must be answered if the Bidder or any of its partners or joint venture parties is a foreign corporation. Note: To do business in or with the City of Carmel, Indiana, foreign corporations must register with the Secretary of the State of Indiana as required by the Indiana General Corporation Act as stated therein and expressed in the Attorney General's Opinion #2, dated January 23, 1958.]*

.1 Corporation Name: \_\_\_\_\_

.2 Address: \_\_\_\_\_

.3 Date registered with State of Indiana: \_\_\_\_\_

.4 Indiana Registered Agent: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**PART 2**  
**BID PROPOSAL**

**2.1 Project Bid.**

The undersigned Bidder proposes to furnish all necessary labor, machinery, tools, apparatus, materials, equipment, service and other necessary supplies, and to perform and fulfill all obligations incident thereto in strict accordance with and within the time(s) provided by the terms and conditions of the Contract Documents for the above described project, including any and all addenda thereto, for the total sum of

\_\_\_\_\_ Dollars (\$\_\_\_\_\_). The Bidder acknowledges that evaluation of the lowest Bid shall be based on such price. The Bidder further understands that all work which may result on the Contract shall be compensated for on a lump sum basis and that the OWNER cannot and does not guarantee the amount or quantity of any item of work to be performed or furnished under the Agreement.

**PART 3**

**CONTRACT DOCUMENTS AND ADDENDA**

- 3.1 The Bidder agrees to be bound by the terms and provisions of all Contract Documents as defined in the Agreement attached hereto and incorporates such Contract Documents herein by reference.
- 3.2 The Bidder acknowledges receipt of the following addenda:

ADDENDUM  
NUMBER

DATE

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**PART 4**

**EXCEPTIONS**

*Instructions To Bidders:*

- 4.1 The Bidder shall fully state each exception taken to the specifications or other Contract Documents in Section 4.3 of this Part.
- 4.2 Bidder is cautioned that any exception taken by Bidder and deemed by OWNER to be a material qualification or variance from the terms of the Contract Documents may result in this Bid being rejected as non-responsive.
- 4.3 Exceptions:

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## **PART 5**

### **FINANCIAL STATEMENT**

Attachment of Bidder's financial statement is mandatory. Any Bid submitted without said financial statement as required by statute shall thereby be rendered invalid. The financial statement provided hereunder to OWNER must be specific enough in detail so that OWNER can make a proper determination of the Bidder's capability for completing the project if awarded.



**PART 6**  
**ADDITIONAL DECLARATIONS**

- 6.1 Bidder certifies for itself and all its subcontractors compliance with all existing laws of the United States and the State of Indiana prohibiting the discrimination against any employee or applicant for employment or subcontract work in the performance of the work contemplated by the Agreement with respect to hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment or subcontracting because of race, religion, color, sex, handicap, national origin, ancestry, age, disabled veteran status or Vietnam era veteran status. The City of Carmel reserves the right to collect a penalty as provided in IC 5-16-6-1 for any person so discriminated against.

## **PART 7**

### **NON-COLLUSION AFFIDAVIT**

The individual person(s) executing this Bid proposal, being first duly sworn, depose(s) and state(s) that the Bidder has not directly or indirectly entered into a combination, collusion, undertaking or agreement with any other Bidder or person (i) relative to the price(s) proposed herein or to be bid by another person, or (ii) to prevent any person from bidding, or (iii) to induce a person to refrain from Bidding; and furthermore, this Bid proposal is made and submitted without reference to any other bids and without agreement, understanding or combination, either directly or indirectly, with any persons with reference to such bidding in any way or manner whatsoever.

**PART 8**

**SIGNATURES**

*[Signature by or on behalf of the Bidder in the spaces provided below shall constitute execution of each and every Part of this itemized proposal and declarations document. SIGNATURE MUST BE PROPERLY NOTARIZED.]*

Bidders Name: \_\_\_\_\_

Written Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Important - Notary Signature and Seal Required in the Space Below**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

My commission expires: \_\_\_\_\_ (Signed) \_\_\_\_\_

Printed: \_\_\_\_\_

Residing in \_\_\_\_\_

County, State of \_\_\_\_\_

**POST BID SUBMITTAL**

**MANUFACTURERS LIST**

Instructions To Bidders:

*The Bidder shall enter, in the spaces provided below, the name of the manufacturer of equipment that the Bidder proposes to furnish for each item of equipment listed in the manufacturers list below. The Bidder shall enter the name of only one manufacturer for each listed equipment item. Failure to enter a manufacturer's name for each listed equipment item may render the Bid non-responsive if it is determined that such omission is material by affording the Bidder a substantial advantage over other Bidders.*

*Upon award of a contract, each listed equipment item shall be furnished by the named manufacturer, unless changes are specifically authorized. Equipment substitutions will be permitted only with the OWNER's prior consent.*

*Preliminary acceptance of equipment listed by the manufacturer's name shall not in any way constitute a waiver of the drawing and specification requirements covering such equipment. Acceptance will be based on full conformity with the drawings and specifications covering the equipment.*

Equipment Item (Contract Items)

Manufacturer

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**BID BOND**  
**City of Carmel**

**Instructions To Bidders**

*Bidders may use this form or other form containing the same material conditions and provisions as approved in advance by OWNER/Obligee.*

*Bidder/Surety must attach a signed, certified and effective dated copy of the Power of Attorney or Attorney-In-Fact establishing the authority of the person(s) signing this Bid Bond on behalf of the Surety.*

*The Surety company executing this bond shall appear on the most current list of "Surety Companies Acceptable on Federal Bonds," as specified in the U.S. Treasury Department Circular 570, as amended, and be authorized to transact business in the State of Indiana.*

KNOW ALL MEN BY THESE PRESENTS, that the undersigned  
"Bidder":

\_\_\_\_\_

and

"Surety": [Name]

\_\_\_\_\_  
[Address]\_\_\_\_\_  
\_\_\_\_\_

a corporation chartered and existing under the laws of the State of  
\_\_\_\_\_, and authorized to do business in the  
State of Indiana,

are held and firmly bound unto the City of Carmel, Indiana ("Obligee") in the full and just sum equal to ten percent (10%) of the price stated in the Bid proposal described in Part 2, including accepted alternates, if any, to be paid upon demand of the Obligee, together with interest at the maximum legal rate from date of demand and any attorney fees and court costs incurred by Obligee to enforce this instrument, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally and firmly by these presents. Ten percent (10%) of the price stated in the Bid Proposal is \$\_\_\_\_\_.

WHEREAS, the Obligee has solicited Bids for certain work for or in furtherance of construction of improvements described generally as:

**2010 ROUNDABOUT AND MEDIAN IRRIGATION**

pursuant to plans, specifications and other "Contract Documents" included as parts of and designated by such solicitation; and

WHEREAS, the Bidder has submitted to the Obligee a Bid proposal to perform such Work.

NOW THEREFORE: The conditions of this obligation are such that if the Bid proposal be accepted, with or without conditions, the Bidder shall within such time thereafter as prescribed by the Contract Documents (i) fulfill all conditions of such award that remain to be fulfilled, (ii) execute an Agreement in accordance with the Bid proposal and in the form and manner required by the Contract Documents, and (iii) thereafter provide all bonds, and other documentation required by the Contract Documents to be delivered to Obligee prior to commencing work on the project, including without limitation a sufficient and satisfactory performance bond and payment bond payable to Obligee, each in an amount of one hundred percent (100%) of the total project Agreement price as awarded and in form and with surety satisfactory to said Obligee, then this obligation to be void; otherwise to be and remain in full force and virtue in law, and the Surety shall, upon failure of the Bidder to comply with any or all of the foregoing requirements within the time specified above and as prescribed by the Contract Documents, immediately pay to the Obligee, upon demand, the amount hereof, in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

IN TESTIMONY THEREOF, the Bidder and Surety have caused this instrument to be duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

***This BID Bond shall bind the undersigned Surety whether or not also signed by the Bidder.***

"Bidder"

"Surety"

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Countersigned: \_\_\_\_\_

**PAYMENT BOND**

**City of Carmel**

*Instructions:*

*Successful Bidder must use this form or other form containing the same material conditions and provisions as approved in advance by OWNER.*

*Date of Bond must not be prior to date of project Agreement. If CONTRACTOR is a partnership, all partners must execute bond.*

*The Surety company executing this bond shall appear on the most current list of "Surety Companies Acceptable on Federal Bonds," as specified in the U.S. Treasury Department Circular 570, as amended, and be authorized to transact business in the State of Indiana.*

KNOW ALL MEN BY THESE PRESENTS: that

"CONTRACTOR": \_\_\_\_\_

and

"Surety": [name] \_\_\_\_\_

[Address] \_\_\_\_\_

\_\_\_\_\_ a corporation chartered and existing under the laws of the State of \_\_\_\_\_, and authorized to do business in the State of Indiana,

are held and firmly bound unto the City of Carmel, Indiana (hereinafter "Obligee"), in the penal sum of \_\_\_\_\_ Dollars, (\$\_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made, plus interest at the maximum legal rate from date of demand and any attorney fees and court costs incurred by Obligee to enforce this instrument, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the CONTRACTOR has entered into a certain Agreement with Obligee, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by which CONTRACTOR has agreed to perform and furnish certain work for or in furtherance of construction of improvements described generally as

**2010 ROUNDABOUT AND MEDIAN IRRIGATION**

which Agreement, and the "Contract Documents" as referred to therein, are hereby incorporated herein by reference;

NOW, THEREFORE, the conditions of this obligation are such that if the CONTRACTOR shall promptly make payments of all amounts due to all Claimants, then

this obligation shall be void; otherwise to remain in full force and effect. "Claimant", as that term is used herein, shall mean any subcontractor, material supplier or other person, firm, or corporation furnishing materials or equipment for or performing labor or services in the prosecution of the work provided for in the Agreement, including, but not limited to, lubricants, oil, gasoline, coal and coke, repairs on machinery, and tools, whether consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor performed in such work.

PROVIDED, FURTHER, that the Surety, for value received, hereby stipulates and agrees:

1. that no defect or irregularity in the contract or in the proceedings preliminary to the letting of the Agreement will operate to release or discharge Surety;
2. that no change, omission, extension of time, alteration or addition to the terms of the Agreement, Contract Documents or to any work to be furnished thereunder, and no delay by the Obligee in enforcement of the Agreement or this bond shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement, Contract Documents or to said work;
3. that no final settlement between the Obligee and the CONTRACTOR shall abridge any right of the Obligee hereunder as to any claim that may remain unsatisfied; and
4. that this Payment Bond and Surety shall not be released until one (1) year after the Obligee's final settlement with the CONTRACTOR.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ (number) counterparts, each one of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CONTRACTOR: [name] \_\_\_\_\_

By: \_\_\_\_\_  
[signature] [printed name]

ATTEST: \_\_\_\_\_, Secretary  
[signature]

SURETY: [name] \_\_\_\_\_

By: \_\_\_\_\_, Attorney-in-Fact  
[signature]

\_\_\_\_\_  
[printed name] [address]



## PERFORMANCE BOND

### City of Carmel

#### *Instructions:*

*Successful Bidder must use this form or other form containing the same material conditions and provisions as approved in advance by OWNER.*

*Date of Bond must not be prior to effective date of Agreement. If CONTRACTOR is a partnership, all partners must execute bond.*

*The Surety company executing this bond shall appear on the most current list of "Surety Companies Acceptable on Federal Bonds," as specified in the U.S. Treasury Department Circular 570, as amended, and be authorized to transact business in the State of Indiana.*

KNOW ALL MEN BY THESE PRESENTS: that

"CONTRACTOR": \_\_\_\_\_

and

"Surety": [name] \_\_\_\_\_

[Address] \_\_\_\_\_

\_\_\_\_\_ a corporation chartered and existing under the laws of the State of \_\_\_\_\_, and authorized to do business in the State of Indiana,

are held and firmly bound unto the City of Carmel, Indiana hereinafter called Obligee, in the penal sum of \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made, together with interest at the maximum legal rate from date of demand and any attorney fees and court costs incurred by Obligee to enforce this instrument, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the CONTRACTOR has entered into a certain Agreement with the Obligee, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, by which CONTRACTOR has agreed to perform and furnish certain work for or in furtherance of construction of improvements described generally as:

#### **2010 ROUNDABOUT AND MEDIAN IRRIGATION**

which Agreement, and the "Contract Documents" as referred to therein, are hereby incorporated herein by reference;

NOW, THEREFORE, the conditions of this obligation are such that if the CONTRACTOR shall well, truly and faithfully perform his duties, all the undertakings, covenants, terms and conditions of said Agreement whether during the original term thereof, and any extensions thereof which

may be granted by the Obligee, with or without notice to the Surety, and during any period of guaranty or warranty provided therein or arising thereunder, and if CONTRACTOR shall satisfy all claims and demands incurred under such Agreement, and shall fully indemnify and save harmless the Obligee from all costs and damages which he may suffer by reason of failure to do so, and shall reimburse and repay the Obligee all outlay and expense which the Obligee may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received, hereby stipulates and agrees:

1. that no defect or irregularity in the Agreement or in the proceedings preliminary to the letting of the Agreement will operate to release or discharge Surety;
2. that no change, omission, extension of time, alteration or addition to the terms of the Agreement, Contract Documents or to any work to be furnished thereunder, and no delay by the Obligee in enforcement of the Agreement or this bond shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement, Contract Documents or to said work;
3. that no final settlement between the Obligee and the CONTRACTOR shall abridge any right of the Obligee hereunder as to any claim that may remain unsatisfied; and
4. that this Performance Bond and Surety shall not be released until one (1) year after the Obligee's final settlement with the CONTRACTOR.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ (number) counterparts, each one of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CONTRACTOR: [name]\_\_\_\_\_

By: \_\_\_\_\_  
[signature] [printed name]

ATTEST: \_\_\_\_\_, Secretary  
[signature]

SURETY: [name]\_\_\_\_\_

By: \_\_\_\_\_, Attorney-in-Fact  
[signature]

\_\_\_\_\_  
[printed name] [address]

\_\_\_\_\_

## CITY OF CARMEL ROUNDABOUT AND MEDIAN IRRIGATION

### MAINTENANCE SPECIFICATIONS

#### Qualifications:

Irrigation contractor must show proof of acceptable training and experience by authorized factory personnel in both overhead and underground drip irrigation systems. A Certified Irrigation Contractor serves as the primary source of verification; however contractor's verifiable experience with all aspects of irrigation will be taken into account.

#### Scope of Work:

Spring: All roundabouts and medians specified are to have water lines charged; backflow devices inspected and tagged by a state-approved licensed inspector. The controller should have the battery replaced and all zones should be run from the controller to verify proper working conditions. Additionally, any system that has a weather monitor shall also have the battery replaced and tested to make certain of an intact communication link. Any defects in the system are to be corrected in order to obtain an irrigation system that works properly. Any deviations in spray patterns, coverage, or pressure should be corrected, noted in writing and reported to an authorized City representative. This work is to be completed by May 15<sup>th</sup>, 2010.

Fall: Winterization of the system includes blowing-out and draining of all lines: including backflow devices as well as any other maintenance necessary to winterize each system. Care should be taken to not allow pressure in any Drip System to exceed 40 PSI. Random on-site visits will occur. Any violations of these guidelines will result in the contractor to be responsible for any and all repairs at the contractor's expense.

Prices for labor and parts for routine repairs shall be listed in the bid.

\$ _____ Labor	\$ _____ MP Rotator Nozzle
\$ _____ Controller	\$ _____ 1" RP Backflow Presenter
\$ _____ Weather Monitor	\$ _____ Drip Valve
\$ _____ 1" Valve	\$ _____ Pressure Regulator
\$ _____ 12" Spray Body	\$ _____ Disc Filter

#### List of irrigation systems requiring start-up, blow-out, and winterization:

Most roundabouts contain 2-3 zones: 1 MP Router zone, 1 turf zone, 1 urn zone.

116th St. median has a total of 14 zones, with both turf and pop-up spray-head zones.

136th St. & Oak Ridge Rd. / Illinois St. Roundabout has 9 zones.

131st St. Roundabouts at Illinois St. and Spring Mill Rd. and adjoining median contains 27 zones.

#### Roundabouts:

96th St. & Ditch Rd.  
96th St. & Spring Mill Rd.  
96th St. & Westfield Blvd.  
103rd St. & Pennsylvania St.  
106th St. & Gray Rd.  
106th St. & Pennsylvania St.  
106th St. & Spring Mill Rd.  
116th St. & Clay Center Rd.  
116th St. & Ditch Rd.  
116th St. & Illinois St. –  
(joined with 116th St. & Spring Mill Rd.)  
116th St. & Shelborne Rd.  
126th St. & Illinois St.  
126th St. & Towne Rd.  
131st St. & Clay Center Rd.  
131st St. & Ditch Rd.  
131st St. & Illinois St. –  
(joined with 131st St. & Spring Mill Rd.)

136th St. & Ditch Rd.  
136th St. & Oak Ridge Rd./ Illinois St.  
136th St. & Spring Mill Rd.  
136th St. & Towne Rd.  
141st St. & Ditch Rd.  
141st St. & Spring Mill Rd.  
141st St. & Towne Rd.  
Oak Ridge Rd. & Adios Pass  
Oak Ridge Rd. & Bennett Rd.  
Spring Mill Rd. & Dorset

#### Medians:

116th St. – (Keystone Ave. – College Ave.)-  
Pennsylvania Ave. – (106th St. to S of 103rd St.) -  
(includes all divider islands)

131st St. & Towne Rd.

## **INSTRUCTIONS FOR PROJECT PROPOSALS**

### **City of Carmel, Indiana**

#### **1. PRE-BID CONFERENCE**

There will be a Pre-bid conference on Tuesday, February 9<sup>th</sup>, 2010 at 10:30 a.m. at the Carmel Street Department, 3400 W. 131<sup>st</sup> Street, Westfield, IN 46074.

#### **2. CONTRACTOR RESPONSIBILITIES**

- 2.1 **Equipment** - All bidders for this Project must have in their possession or available to them by binding agreement at the time of bidding such trucks, devices, string trimmers, mowers, and all other equipment and supplies as are necessary to perform the Project work as outlined in these specifications. The City of Carmel, Indiana ("Owner") may inspect and review, upon request, such equipment and agreements prior to the awarding of a contract hereunder.
- 2.2 **Traffic Control** - Traffic Control is the sole responsibility of Contractor, and shall be coordinated in advance with the proper Department(s) of the Owner. The Contractor shall be solely responsible for pedestrian and vehicular safety and control within and about the Project work site, and shall provide and use all necessary warning devices, barricades and personnel needed to give safety, protection and warning to persons and vehicular traffic within and about the Project area. The blocking of public streets shall not be permitted unless prior arrangements have been made with the Owner and coordinated with the appropriate City Departments. Traffic control shall be accomplished in conformance with State, County and Local highway construction codes and all other applicable law.
- 2.3 **Damages** - Any injuries, damages, expenses or loss to any person or property, public or private, as a result of or related to the Project are the sole responsibility of the Contractor and shall be repaired or compensated by the Contractor to the satisfaction of both the injured party and the Owner, at no cost to the Owner. Contractor agrees to hold the Owner harmless in any claim or suit brought or alleged as a result of or arising out of the Project, except for Owner's own intentional or grossly negligent actions.
- 2.4 **Insurance** - The Contractor shall provide the Owner with a valid and binding Certificate of Insurance for General Liability in an amount as directed by Exhibit "C", Insurance Coverages. The "City of Carmel, Indiana" shall be named as an additional insured on all such insurance policies. The Owner shall be given 30 days prior written notice of same.
- 2.5 **Working Hours** - The Contractor will schedule Project work to occur between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday, only, unless authorized by the Owner in advance.
- 2.6 **Execution of Contract** - The successful bidder, within five (5) business days of the mailing of written notice of such bidder's selection as the successful bidder, shall enter into a contract ("Contract") with the Owner in substantially the same form and containing all the material terms and conditions contained in the sample contract form included within the bidding documents for the performance of the Project so awarded, and shall simultaneously provide to Owner all of the bonds, indemnities and insurance required hereunder. The Contract, when executed, shall be deemed to include the entire agreement between the parties and Contractor agrees not to base any claim for modification of the Contract upon any prior representation or promises made by representatives of the Owner, or by any other person.
- 2.7 **Discontinuance of Work** - Any practice that is hazardous, as determined by the Owner in its sole discretion, shall be immediately discontinued by the Contractor upon receipt of either written or oral notice to discontinue such practice from Owner.
- 2.8 **Observance of Laws, Ordinances and Regulations** - The Contractor, at all times during the term of the Contract, shall observe and abide by all Federal, State and Local laws which in any way

affect the Project or Project work, and shall comply with all decrees and orders of all courts of competent jurisdiction.

- 2.9 Work Modification - Any alteration or modification of the work performed under the Contract shall be made only by written agreement between the Contractor and Owner and shall be made prior to commencement of the altered or modified work. No claim for extra work or materials shall be allowed unless covered by such a written agreement executed by all parties hereto.
- 2.10 Award - For a bid quote to be considered, by the owner, all prices for the Project must be included therein.
- 2.11 Contract Termination - The Owner shall have the right to terminate the Contract or part thereof, before the Project work is completed, in the event:
- A. Previously unknown circumstances arise making it desirable and in the public interest to void the Contract.
  - B. The Contractor is not complying with all of the specifications of the Contract.
  - C. The Contractor is not following proper arboricultural techniques after written notification by the Owner or its authorized representative of its failure to do so.
  - D. The Contractor refuses, neglects or fails to timely and continuously supply properly trained and skilled supervisory personnel and/or workers, proper equipment of the specified quality and quantity, for the completion of the Project.
  - E. The Contractor, in the sole judgement of the Owner, is unnecessarily or willfully delaying the performance and completion of Project work.
  - F. The Contractor fails or refuses to proceed with Project work as directed by the Owner or abandons the Project work.
- 2.12 Indemnification - The Contractor agrees to indemnify, hold harmless, and defend the Owner from and against any and all loss, damage and/or expense which Owner may suffer or for which the Owner may be liable by reason of any injury (including death) or damage to any property arising out of the intentional or negligent acts or failures of Contractor, its employees, subcontractors or agents in or as a result of the execution of the Project work to be performed hereunder or as a result of the chemicals or other substances used by contractor on the Project.

### 3. TERM

As part of the final contract, the winning bid may be renewed or renegotiated solely at the discretion of the City, as permitted by law. If the City chooses to renew or renegotiate the contract for another year, it will notify Vendor no later than January 15, of the year following execution of the contract. Vendor will then have the opportunity to renew the contract under the same terms, or submit new terms. If any proposed new terms are not acceptable to the City, in the City's own discretion, it can decline to renew the contract and accept bids for the project.

### 4. METHOD OF PAYMENT

Invoices may be submitted by the first day of each month and payment of all undisputed portions thereof will be made thirty (30) business days after receipt of same by Owner. Payments will also be conditional upon Contractor receiving a satisfactory bi-weekly inspection report from Owner.

## SAMPLE ONLY

### AGREEMENT FOR PURCHASE OF GOODS AND SERVICES

THIS AGREEMENT FOR PURCHASE OF GOODS AND SERVICES ("Agreement") is hereby entered into by and between the City of Carmel, Indiana, acting by and through its Board of Public Works and Safety ("City"), and \_\_\_\_\_ ("Vendor").

#### TERMS AND CONDITIONS

1.     **ACKNOWLEDGMENT, ACCEPTANCE:**

Vendor acknowledges that it has read and understands this Agreement, and agrees that its execution of same constitutes its acceptance of all of the Agreement's terms and conditions.

2.     **PERFORMANCE:**

City agrees to purchase the goods and/or services (the "Goods and Services") from Vendor using City budget appropriation number \_\_\_\_\_ funds. Vendor agrees to provide the Goods and Services and to otherwise perform the requirements of this Agreement by applying at all times the highest technical and industry standards.

3.     **PRICE AND PAYMENT TERMS:**

3.1     Vendor estimates that the total price for the Goods and Services to be provided to City hereunder shall be no more than \_\_\_\_\_ Dollars (\$ \_\_\_\_\_ ) (the "Estimate"). Vendor shall submit an invoice to City no more than once every thirty (30) days detailing the Goods and Services provided to City within such time period. City shall pay Vendor for such Goods and Services within sixty (60) days after the date of City's receipt of Vendor's invoice detailing same, so long as and to the extent such Goods and Services are not disputed, are in accordance with the specifications set forth in Exhibit A, are submitted on an invoice that contains the information contained on attached Exhibit B, and Vendor has otherwise performed and satisfied all the terms and conditions of this Agreement. Subject to the above, if an undisputed invoice amount is not paid within sixty (60) days of its receipt by City, then a late charge in a sum equal to one percent (1%) of such amount shall accrue and be due and payable by City to Vendor as a separate debt for each month it remains unpaid.

3.2     Vendor agrees not to provide any Goods and Services to City that would cause the total cost of the Goods and Services provided by Vendor to City hereunder to exceed the Estimate, unless City has previously agreed, in writing, to pay an amount in excess thereof.

## SAMPLE ONLY

4. **WARRANTY:**

Vendor expressly warrants that the Goods and Services covered by this Agreement will conform to the specifications, samples and/or descriptions thereof furnished to Vendor by City and/or by Vendor to and accepted by City, that the Goods and Services will be delivered in a timely, good and workmanlike manner and free from defect. Vendor acknowledges that it knows of City's intended use and expressly warrants that the Goods and Services provided to City pursuant to this Agreement have been selected by Vendor based upon City's stated use and are fit and sufficient for their particular purpose.

5. **TIME AND PERFORMANCE:**

This Agreement shall become effective as of the last date on which a party hereto executes same ("Effective Date"), and both parties shall thereafter perform their obligations hereunder in a timely manner. Time is of the essence of this Agreement.

6. **DISCLOSURE AND WARNINGS:**

If requested by City, Vendor shall promptly furnish to City, in such form and detail as City may direct, a list of all chemicals, materials, substances and items used in or during the provision of the Goods and Services provided hereunder, including the quantity, quality and concentration thereof and any other information relating thereto. At the time of the delivery of the Goods and Services provided hereunder, Vendor agrees to furnish to City sufficient written warning and notice (including appropriate labels on containers and packing) of any hazardous material utilized in or that is a part of the Goods and Services.

7. **LIENS:**

Vendor shall not cause or permit the filing of any lien on any of City's property. In the event any such lien is filed and Vendor fails to remove such lien within ten (10) days after the filing thereof, by payment or bonding, City shall have the right to pay such lien or obtain such bond, all at Vendor's sole cost and expense.

8. **DEFAULT:**

In the event Vendor: (a) repudiates, breaches or defaults under any of the terms or conditions of this Agreement, including Vendor's warranties; (b) fails to provide the Goods and Services as specified herein; (c) fails to make progress so as to endanger timely and proper provision of the Goods and Services and does not correct such failure or breach within five (5) business days (or such shorter period of time as is commercially reasonable under the circumstances) after receipt of notice from City specifying such failure or breach; or (d) becomes insolvent, is placed into receivership, makes a general assignment for the benefit of creditors or dissolves, each such event constituting an event of default hereunder, City shall have the right to (1) terminate all or any parts of this Agreement, without liability to Vendor; and (2) exercise all other rights and remedies available to City at law and/or in equity.

9. **INSURANCE AND INDEMNIFICATION:**

Vendor shall procure and maintain in full force and effect during the term of this Agreement, with an insurer licensed to do business in the State of Indiana, such insurance as is necessary for the protection of City and Vendor from all claims for damages under any workers' compensation, occupational disease and/or unemployment compensation act; for bodily injuries including, but not limited to, personal injury, sickness, disease or death of or to any of Vendor's agents, officers, employees, contractors and subcontractors; and, for any injury to or destruction of property, including, but not limited to, any loss of use resulting therefrom. The coverage amounts shall be no less than those amounts set forth in attached Exhibit C. Vendor shall cause its insurers to name City as an additional insured on all such insurance policies, shall promptly provide City, upon request, with copies of all such policies, and shall provide that such insurance policies shall not be canceled without thirty (30) days prior notice to City. Vendor shall indemnify and hold harmless City from and against any and all liabilities, claims, demands or expenses (including, but not limited to, reasonable attorney fees) for injury, death and/or damages to any person or property arising from or in connection with Vendor's provision of Goods and Services pursuant to or under this Agreement or Vendor's use of City property. Vendor further agrees to indemnify, defend and hold harmless City and its officers, officials, agents and employees from all claims and suits of whatever type, including, but not limited to, all court costs, attorney fees, and other expenses, caused by any act or omission of Vendor and/or of any of Vendor's agents, officers, employees, contractors or subcontractors in the performance of this Agreement. These indemnification obligations shall survive the termination of this Agreement.

10. **GOVERNMENT COMPLIANCE:**

Vendor agrees to comply with all federal, state and local laws, executive orders, rules, regulations and codes which may be applicable to Vendor's performance of its obligations under this Agreement, and all relevant provisions thereof are incorporated herein by this reference. Vendor agrees to indemnify and hold harmless City from any loss, damage and/or liability resulting from any such violation of such laws, orders, rules, regulations and codes. This indemnification obligation shall survive the termination of this Agreement.

11. **NONDISCRIMINATION:**

Vendor represents and warrants that it and all of its officers, employees, agents, contractors and subcontractors shall comply with all laws of the United States, the State of Indiana and City prohibiting discrimination against any employee, applicant for employment or other person in the provision of any Goods and Services provided by this Agreement with respect to their hire, tenure, terms, conditions and privileges of employment and any other matter related to their employment or subcontracting, because of race, religion, color, sex, handicap, national origin, ancestry, age, disabled veteran status and/or Vietnam era veteran status.



**SAMPLE ONLY**

12. **NO IMPLIED WAIVER:**

The failure of either party to require performance by the other of any provision of this Agreement shall not affect the right of such party to require such performance at any time thereafter, nor shall the waiver by any party of a breach of any provision of this Agreement constitute a waiver of any succeeding breach of the same or any other provision hereof.

13. **NON-ASSIGNMENT:**

Vendor shall not assign or pledge this Agreement, whether as collateral for a loan or otherwise, and shall not delegate its obligations under this Agreement without City's prior written consent.

14. **RELATIONSHIP OF PARTIES:**

The relationship of the parties hereto shall be as provided for in this Agreement, and neither Vendor nor any of its officers, employees, contractors, subcontractors and agents are employees of City. The contract price set forth herein shall be the full and maximum compensation and monies required of City to be paid to Vendor under or pursuant to this Agreement.

15. **GOVERNING LAW; LAWSUITS:**

This Agreement is to be construed in accordance with and governed by the laws of the State of Indiana, except for its conflict of laws provisions. The parties agree that, in the event a lawsuit is filed hereunder, they waive their right to a jury trial, agree to file any such lawsuit in an appropriate court in Hamilton County, Indiana only, and agree that such court is the appropriate venue for and has jurisdiction over same.

16. **SEVERABILITY:**

If any term of this Agreement is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with same, and the remaining provisions of this Agreement shall remain in full force and effect.

17. **NOTICE:**

Any notice provided for in this Agreement will be sufficient if it is in writing and is delivered by postage prepaid U.S. certified mail, return receipt requested, to the party to be notified at the address specified herein:

If to City:      City of Carmel  
                         One Civic Square  
                         Carmel, Indiana 46032  
                         ATTN:  
                         (with a copy to City Attorney,  
                         One Civic Square, Carmel, IN 46032)

## SAMPLE ONLY

If to Vendor:

ATTN: \_\_\_\_\_

Notwithstanding the above, notice of termination under paragraph 18 hereinbelow shall be effective if given orally, as long as written notice is then provided as set forth hereinabove within five (5) business days from the date of such oral notice.

18. TERMINATION:

18.1 Notwithstanding anything to the contrary contained in this Agreement, City may, upon notice to Vendor, immediately terminate this Agreement for cause, in the event of a default hereunder by Vendor and/or if sufficient funds are not appropriated or encumbered to pay for the Goods and Services to be provided hereunder. In the event of such termination, Vendor shall be entitled to receive only payment for the undisputed invoice amount representing conforming Goods and Services delivered as of the date of termination, except that such payment amount shall not exceed the Estimate amount in effect at the time of termination, unless the parties have previously agreed in writing to a greater amount.

18.2 Either party hereto may terminate this Agreement at any time upon thirty (30) days prior notice to the other party. In the event of such termination, Vendor shall be entitled to receive only payment for the undisputed invoice amount of conforming Goods and Services delivered as of the date of termination, except that such payment amount shall not exceed the Estimate amount in effect at the time of termination, unless the parties have previously agreed in writing to a greater amount.

19. REPRESENTATIONS AND WARRANTIES

The parties represent and warrant that they are authorized to enter into this Agreement and that the persons executing this Agreement have the authority to bind the party which they represent.

20. ADDITIONAL GOODS AND SERVICES

Vendor understands and agrees that City may, from time to time, request Vendor to provide additional goods and services to City. When City desires additional goods and services from Vendor, the City shall notify Vendor of such additional goods and services desired, as well as the time frame in which same are to be provided. Only after City has approved Vendor's time and cost estimate for the provision of such additional goods and services, has encumbered sufficient monies to pay for same, and has authorized Vendor, in writing, to provide such additional goods and services, shall such goods and services be provided by Vendor to City. A copy of the City's authorization documents for the purchase of additional goods and services shall be numbered and attached hereto in the order in which they are approved by City.

## SAMPLE ONLY

21. TERM

Subject to the termination provisions set forth in Paragraph 18 hereinabove, this Agreement shall be in effect from the Effective Date through December 31, 2003, and shall, on the first day of each January thereafter, automatically renew for a period of one (1) calendar year, unless otherwise agreed by the parties hereto.

22. HEADINGS

All heading and sections of this Agreement are inserted for convenience only and do not form a part of this Agreement nor limit, expand or otherwise alter the meaning of any provision hereof.

23. BINDING EFFECT

The parties, and their respective officers, officials, agents, partners, successors, assigns and legal representatives, are bound to the other with respect to all of the covenants, terms, warranties and obligations set forth in Agreement.

24. NO THIRD PARTY BENEFICIARIES

This Agreement gives no rights or benefits to anyone other than City and Vendor.

25. ADVICE OF COUNSEL:

The parties warrant that they have read this Agreement and understand it, have had the opportunity to obtain legal advice and assistance of counsel throughout the negotiation of this Agreement, and enter into same freely, voluntarily, and without any duress, undue influence or coercion.

26. ENTIRE AGREEMENT:

This Agreement, together with any exhibits attached hereto or referenced herein, constitutes the entire agreement between Vendor and City with respect to the subject matter hereof, and supersedes all prior oral or written representations and agreements regarding same. Notwithstanding any other term or condition set forth herein, but subject to paragraph 16 hereof, to the extent any term or condition contained in any exhibit attached to this Agreement or in any document referenced herein conflicts with any term or condition contained in this Agreement, the term or condition contained in this Agreement shall govern and prevail. This Agreement may only be modified by written amendment executed by both parties hereto, or their successors in interest.

*[Remainder of page intentionally left blank]*

**SAMPLE ONLY**

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as follows:

CITY OF CARMEL, INDIANA  
by and through its Board of Public  
Works and Safety

By:

\_\_\_\_\_  
James Brainard, Presiding Officer

Date: \_\_\_\_\_

\_\_\_\_\_  
Mary Ann Burke, Member

Date: \_\_\_\_\_

\_\_\_\_\_  
Lori S. Watson, Member

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Diana Cordray, IAMC, Clerk-Treasurer

Date: \_\_\_\_\_

By:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

FID/TIN: \_\_\_\_\_

SSN if Sole Proprietor: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**  
**Invoice**

**Date:**

*Name of Company:*

*Address & Zip:*

*Telephone No.:*

*Fax No.:*

**Project Name:**

**Invoice No:**

Person Providing Goods/Services	Date Goods/ Service Provided	Goods/Services Provided (Describe each good/service separately and in detail)	<u>Goods</u>	<u>Services</u>	Total
			Cost Per Item	Hourly Rate/ Hours Worked	

*GRAND TOTAL*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

## EXHIBIT C

### INSURANCE COVERAGES

#### Worker's Compensation & Disability

#### Statutory Limits

#### Employer's Liability:

Bodily Injury by Accident/Disease:	\$100,000 each employee
Bodily Injury by Accident/Disease:	\$250,000 each accident
Bodily Injury by Accident/Disease:	\$500,000 policy limit

#### Property damage, contractual liability, products-completed operations:

General Aggregate Limit (other than Products/Completed Operations):	\$500,000
Products/Completed Operations:	\$500,000

#### Personal & Advertising Injury

Policy Limit:	\$500,000
Each Occurrence Limit:	\$250,000
Fire Damage (any one fire):	\$250,000
Medical Expense Limit (any one person):	\$ 50,000

#### Comprehensive Auto Liability (owned, hired and non-owned)

Bodily Single Limit:	\$500,000 each accident
Injury and property damage:	\$500,000 each accident
Policy Limit:	\$500,000

#### Umbrella Excess Liability

Each occurrence and aggregate:	\$500,000
Maximum deductible:	\$ 10,000